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HEWLETT-PACKARD COMPANY
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OFFICE OF PETITIONS

In re Application of
Hao et al.
Application No. 09/847,390
Filed: 2 May, 2001
Atty Docket No. 10003407-1

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ON PETITION

This is a decision on the petition under 1.137(b),¹ filed on 10 January, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 1 April, 2004, for failure to properly to the final Office action mailed on 30 December, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114.

In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

obtained. On 8 March, 2004, an amendment after final rejection was filed. The amendment did not *prima facie* place the application in condition for allowance, however, and an Advisory Action was mailed on 15 September, 2004. On 18 October, 2004, petitioners filed a Notice of Appeal and fee, and on 19 October, 2004, a petition under 37 CFR 1.137(a) was filed. The petition was dismissed on 8 December, 2004. On 10 January, 2005, the present petition under 37 CFR 1.137(b) and an appeal brief and fee were filed.

The application is being referred to Technology Center 2166 for review of applicants' appeal brief.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions